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COOPERATION BETWEEN THE UNITED NATIONS AND THE ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE

Report of the Secretary-General

1. The present report is prepared pursuant to paragraph 5 of General Assembly resolution 47/6 of 21 October 1992 entitled "Cooperation between the United Nations and the Asian-African Legal Consultative Committee".

2. The General Assembly, by its resolution 35/2 of 13 October 1980, invited the Asian-African Legal Consultative Committee (AALCC) to participate in its sessions and its work in the capacity of observer. A Permanent Observer Mission to the United Nations was thereafter established in New York. On the occasion of the commemoration of the Committee's twenty-fifth anniversary, the Assembly, in its resolution 36/38 of 18 November 1981, requested the Secretary-General of the United Nations to carry out consultations with the Secretary-General of AALCC with a view to strengthening further and widening the scope of cooperation between the two organizations. In its resolution 39/47 of 10 December 1984, the Assembly commended AALCC for orienting its programme to strengthening its supportive role to the work of the United Nations in wider areas. The item had been considered by the Assembly annually until its forty-first session and then at its forty-third, forty-fifth and forty-seventh sessions.

3. In its resolution 47/6, the General Assembly, inter alia, noted with satisfaction the continuing efforts of AALCC towards strengthening the role of the United Nations and its various organs, including the International Court of Justice, through programmes and initiatives undertaken by the Committee; the commendable progress achieved towards enhancing cooperation between the United Nations and AALCC in wider areas; and the decision of AALCC to participate actively in the programmes of the United Nations Decade of International Law. The Assembly decided to include the item entitled "Cooperation between the United Nations and the Asian-African Legal Consultative Committee" in the provisional agenda of its forty-ninth session.

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A. Cooperative framework

4. Pursuant to the cooperation framework agreed upon by the two organizations, consultations have routinely been conducted on matters of common interest, in particular, regarding representation at meetings and sessions, exchange of documentation and information, and the identification of areas where the supportive role of AALCC might be most productive. During the period under review, meetings were held between the Secretary-General of the United Nations and the Secretary-General of AALCC. Pursuant to those consultations, AALCC has tried to orient its work programmes to accord priority to matters that are of current interest to the United Nations and to initiate actions with a view to strengthening the role of the United Nations. The areas of cooperation now cover matters in the economic and humanitarian fields as well as in the field of international law.

B. Representation at meetings and conferences

5. During the period under review, AALCC was represented at various meetings and conferences held under the auspices of the United Nations and its organs and agencies, including the regular sessions of the General Assembly, the International Law Commission, the United Nations Commission on International Trade Law (UNCITRAL), the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea, the informal consultations on the Law of the Sea, the Preparatory Committee for the World Conference on Human Rights, the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, the Intergovernmental Negotiating Committee for the elaboration of an international convention to combat desertification in those countries experiencing serious drought and/or desertification, particularly in Africa, the Intergovernmental Committee for a Framework Convention on Climate Change, and the Commission on Sustainable Development.

6. At its thirty-second session held in 1993 at Kampala, AALCC established an open-ended Working Group on Human Rights with the mandate of preparing a draft declaration on human rights, which was subsequently adopted as the Kampala Declaration on Human Rights. The text 1/ was circulated at the fourth session of the Preparatory Committee for the World Conference on Human Rights.

7. Representatives of various United Nations bodies were represented at the thirty-second session of AALCC including the Executive Secretary of the Economic Commission for Africa, the Vice-President of the International Court of Justice, the Chairman of the International Law Commission, the representatives of UNCITRAL, the United Nations Environment Programme, the Office of the United Nations High Commissioner for Refugees (UNHCR), and the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders. The Secretary-General of the United Nations was also represented. The thirty-third session of AALCC was held in Tokyo in January 1994 and was similarly attended by a representative of the Secretary-General, the Chairperson of the Sixth Committee of the General Assembly, the Chairman of International Law Commission and representatives of UNHCR and of the World Bank.

C. Role of the United Nations and the United Nations Decade of International Law

8. In 1985, AALCC prepared a study on "Strengthening the role of the United Nations through rationalization of its functional modalities with special reference to the General Assembly" (A/40/726 and Corr.1, annex), providing an overall assessment of the functioning of the United Nations, and subsequently, a set of recommendations on the improvement of the functioning of the General Assembly was prepared (see A/41/437, annex). Since then AALCC has continued to follow up on the implementation of the relevant resolutions relating to this subject, on the work of the Special Committee on the Charter of the United Nations and on Strengthening the Role of the Organization as well as the progress on various other related proposals.

9. Pursuant to General Assembly resolution 44/23 of 17 November 1989, in which the Assembly, inter alia, declared the period 1990-1999 as the United Nations Decade of International Law, AALCC prepared a paper identifying a number of issues involved and activities that might be undertaken during the Decade. At its twenty-ninth session held in Beijing in March 1990, AALCC urged greater collaboration with the United Nations in that regard. A report on the role that AALCC can play in the realization of the objectives of the Decade was thereafter submitted to the Secretary-General (see A/45/430, annex).

10. In cooperation with the Government of Qatar, an international conference was organized by AALCC in March 1994 at Doha to promote the objectives of the United Nations Decade of International Law. The conference was attended by senior government officials, the representative of the Secretary-General of the United Nations, officials of the United Nations system, and jurists from developing and developed countries (see A/48/312, paras. 45, 80 and 107).

D. Promoting wider use of the International Court of Justice

11. AALCC continues its efforts in promoting wider use of the International Court of Justice. It may be recalled that it had prepared for the fortieth session of the General Assembly a study on the question of possible wider use of the International Court of Justice, which was circulated to Member States (see A/40/682, annex). The study focused attention on the advantages to be obtained by using the Court or its Special Chamber. A colloquium was held in October 1986 at United Nations Headquarters to provide opportunities for in-depth explanation of the available procedures under the revised Rules of Court for resolving disputes in matters referred to it under special agreements, with special reference to the use of special chambers.

12. A meeting of the Legal Advisers of the AALCC Member States was convened at United Nations Headquarters in New York in November 1991 to consider, inter alia, the issue of peaceful settlement of disputes. In addressing the meeting, the President of the International Court of Justice, Sir Robert Jennings, referred to the renewed increasing support for the Court in the General Assembly, and to the usefulness of advisory opinions of the Court.

13. AALCC prepared a study on the enhanced utilization of the International Court of Justice in matters relating to the protection and preservation of the environment.

14. The General Assembly, in its resolution 44/23 on the United Nations Decade of International Law, recognizes that one of the main objectives of the Decade is to promote means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice. The use of the Court by such AALCC member States as Bahrain, the Islamic Republic of Iran, the Libyan Arab Jamahiriya and Qatar for the settlement of their disputes may therefore be noted.

E. Measures designed to further the work of the Sixth Committee

15. In fulfilment of its function of rendering assistance to its member States for active participation in the work of the General Assembly, AALCC prepares on a regular basis notes and comments on items before the Sixth Committee, including the report of the International Law Commission and UNCITRAL. During the period under review, consultations were arranged during the General Assembly between the representatives of AALCC member States and other interested Governments to provide opportunities for an exchange of views on those matters.

16. AALCC continued to follow closely the work of the International Law Commission and has included the work of the Commission and the question of non-navigational uses of international watercourses in its current work programme.

17. AALCC attaches great significance to the items on the agenda of the International Law Commission as they are of particular relevance to its members. In pursuance of the mandate of the thirty-third session, the Secretary-General of the Committee recently brought to the attention of the International Law Commission the views of the member Governments on the work of the International Law Commission at its previous session.

18. Collaboration also continued between AALCC and UNCITRAL. During the period under review, AALCC was represented at the twenty-sixth session of UNCITRAL and had prepared notes and comments on the work of the twenty-sixth session of UNCITRAL.

F. Measures for the promotion of ratification and implementation of the United Nations Convention on the Law of the Sea

19. AALCC has urged its Member States which have signed the United Nations Convention on the Law of the Sea to consider ratifying the Convention in order to allow its early implementation. It has also made an appeal to all other States to consider ratifying or acceding to the Convention at the earliest possible date. At its thirtieth session held at Cairo in 1991, AALCC considered a note prepared by its Secretariat on the significance and cost of ratification of the Convention. AALCC has also considered matters relating to the Preparatory Commission for the International Seabed Authority and for the

International Tribunal for the Law of the Sea since 1984. At its thirty-first session, held at Islamabad in 1992, AALCC urged the International Law Commission to consider including in its work programme an item entitled "Reservation for peaceful purposes of the international seabed area and the high seas for marine scientific research".

20. AALCC was represented during the period under review at sessions of the informal consultations organized by the Secretary-General on resolving outstanding issues relating to deep seabed mining provisions on the Law of the Sea, and had prepared a report on the informal consultations, which was submitted to its thirty-third session.

G. International economic cooperation for development

21. During the period under review, AALCC participated in the sessions and meetings of the Economic and Social Council, the United Nations Conference on Trade and Development and UNCITRAL. It has also prepared model bilateral agreements for promotion and protection of investments so as to generate a wider flow of capital and technology to the developing countries in the Asian-African region. Steps have been taken to promote wider appreciation of the model agreements among the Governments of the Asian-African region.

22. At its thirty-first session in 1991, AALCC adopted a legal framework for promoting industrial joint ventures in the Asian-African region. Member States of the Committee were urged to publicize those guidelines in their respective countries for wider use. This legal framework is being updated in the light of the amendments that may have been effected in the national laws or model contracts pertaining to joint-venture arrangements in use in the region. AALCC intends to prepare a legal guide on joint ventures similar to the one prepared by UNCITRAL on drawing up of international contracts for industrial works.

23. AALCC is particularly interested in legal issues involved in the privatization of public sector undertakings and the liberalization of economic activities as a means to increase economic efficiency, growth and sustainable development in the context of economic restructuring programmes. As a result, it convened a special meeting on developing institutional and legal guidelines for privatization and post-privatization regulatory framework during its thirty-third session.

24. Under an AALCC scheme for settlement of disputes in economic and commercial transactions, two regional arbitration centres have been established at Kuala Lumpur and Cairo. One of the objectives of these centres is to help in the promotion and implementation of the UNCITRAL arbitration rules. Steps are being taken to establish and make operational a similar centre at Nairobi for serving the countries in eastern and southern Africa.

25. AALCC prepared studies on establishing a centre for research and development of legal regimes applicable to the economic activities in developing countries, and on how to strengthen its capabilities to collect and disseminate information and data from various United Nations agencies and other bodies. A Data Collection Unit has been established and is functioning at the headquarters

of the Committee. The main function of the Unit is to collect information on the laws and regulations of AALCC member States. The Unit has been working in close cooperation with the relevant international organizations in this regard.

26. AALCC is concerned with the question of the debt burden of developing countries and has prepared various studies on the subject. The current focus has been on efforts initiated in recent times to mitigate the effects of debt burden. At the thirty-third session of the Committee, the secretariat of AALCC was requested to continue monitoring developments in this field. A progress report covering the legislative activities of the United Nations and other international organizations concerned with international trade law is prepared and distributed for the information of its member States at each annual session of the Committee.

H. Question of refugees

27. AALCC has been actively engaged in the study of refugee law and refugee problems and has, for that purpose, been working in close cooperation with UNHCR.

28. The concept of establishing a safety zone for displaced persons in the country of origin has been studied by AALCC, and it had identified a set of 13 principles which may be incorporated in a framework for creating safety zones in the country of origin. At the thirty-third session of the Committee the secretariat of AALCC was directed to study further the concept of safety zones and to analyse the role played by the United Nations and UNHCR, particularly regarding their experience in recent years.

29. In 1991, AALCC organized jointly with UNHCR a workshop on "International Refugee and Humanitarian Law in the Asian-African Region". The objective of the workshop was to enhance the awareness of government authorities of the international instruments concerning refugees and to promote wider acceptance among AALCC member States of the 1951 Convention and the 1967 Protocol relating to the Status of Refugees. The workshop, inter alia, recommended that AALCC should consider the possibility of preparing a draft model legislation relating to refugees. AALCC has undertaken the drafting of a Modular Legislation on the Rights and Duties of the Refugees in the light of principles of international law and practice of States in the region. The Modular Legislation will be transmitted to all Member States for their consideration and comments.

I. Zones of peace and international cooperation

30. A study on the Indian Ocean as a zone of peace was considered by AALCC at its twenty-ninth session. The secretariat of AALCC was requested to establish close cooperation in that regard with the United Nations Ad Hoc Committee on the Indian Ocean and to monitor its work. In October 1993, the Chairman of the Ad Hoc Committee on the Indian Ocean addressed a meeting of the legal advisers of the member States of AALCC convened at the United Nations Headquarters in New York.

J. Illicit traffic in narcotic drugs

31. AALCC continues to monitor developments in the field of international control of narcotic drugs and psychotropic substances, and has urged its Members who have not already done so to ratify or accede to the relevant international instruments in that field. AALCC was represented at the meetings of the United Nations Commission on Crime Prevention and Criminal Justice.

K. Other issues currently before AALCC

32. AALCC continues its interest in the analysis of international instruments adopted by the United Nations Conference on Environment and Development, held at Rio de Janeiro in June 1992, and was represented at the Intergovernmental Negotiating Committee for the elaboration of an international convention to combat desertification in countries experiencing serious drought and/or desertification, particularly in Africa. It has undertaken a study of the draft Convention on Combating Desertification and Mitigation of Drought adopted by the Intergovernmental Negotiating Committee at its meeting held in Paris in June 1994. The proposed study is expected to assist the representatives of the member States and facilitate the adoption of the proposed Convention. At its thirty-third session, the secretariat of AALCC was directed to continue to monitor the progress in environmental matters particularly towards the implementation of Agenda 21. 2/

33. Following its consideration of the proposals made by the Secretary-General in his report entitled "An Agenda for Peace" (A/47/277) AALCC is now preparing studies on legal issues concerning mine clearance, protection of personnel engaged in peacemaking, peace-keeping and other humanitarian activities.

34. Since its twenty-seventh session, AALCC has included in its agenda an item entitled "Deportation of Palestinians as a violation of international law, particularly the 1949 Geneva Conventions". This item has been considered at successive sessions of the Committee and remains on the work programme of the Committee.

Notes

1/ A/CONF.157/PC.62/Add.9.

2/ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, vol. I, resolution I, annex II.